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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/518,811

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Bruce J. Gantz

22409-00113-US

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05/04/2009

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EXAMINER

WU, EUGENE TONG

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BRUCE J. GANTZ; JAMES FINLEY PATRICK;
JOHN L. PARKER

Application 10/518,811
Technology Center 3700

Mailed: May 04, 2009

Before KRISTA ZELE, *Deputy Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL

This application was electronically received by the Board of Patent Appeals and Interferences on February 04, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

APPEAL BRIEF, GROUNDS OF REJECTION

A review of the file finds that the grounds of rejection of the claims as provided in the Appeal Brief filed June 04, 2008 under the heading “Grounds of rejection to be reviewed on appeal” is unclear and/or is not consistent with the grounds of rejection of claims of record. The grounds of rejection of the claims as provided in the Appeal Brief must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Each Grounds of rejection to be reviewed on appeal must be identified.

A review of the last Office action, including any mailed Advisory Action(s) finds that claims 1-4, 6, 8-10, 13, 22, 25, 36-39, 41-43 are “rejected under 35 U.S.C. § 103(a) as being unpatentable over Kuzma (WO 00/69513) in view of Dutcher...” and claims 12, 36 and 40 “rejected under 35 U.S.C. § 103(a) as being unpatentable over Kuzma, et. al. (WO 00/69513) as applied to claim 1, and further in view of Kuzma (US 6,163,729)” and “claims 23 and 24 rejected under 35 U.S.C. § 103(a) as being unpatentable over Kuzma, et. al. (WO 00/69513) as applied to claim 22, and further in view of Knudsen et. al. (US 4,487,210); whereas Appellant(s) have either not indicated the

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grounds of rejection of these claims or has improperly listed these claims as “...rejected independent claims 1, 22 and 38 under 35 U.S.C. § 103(a) as being unpatentable over WO00/96513 to Kuzma in view of U.S. Patent number 5,143,090 to Dutcher...” Correction of the Grounds of rejection to be reviewed on appeal for all claims is required.

CONCLUSION

Accordingly, it is ORDERED that the application is returned to the Examiner:

- 1) to hold the Appeal Brief filed on June 04, 2008 defective;
- 2) notify Appellant to file a paper properly addressing the Grounds of rejection of all claims; and,
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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KZ/MV/MAT

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